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U.S. BANKRUPTCY COURT
NORTHERN DIST. OF CA.
OAKLAND, CA.

Attorney for Plaintiff

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

IN RE 818 GREEN STREET, DEBTOR

Case No.: 14-42286

MARTIN LEE ENG,

Plaintiff,

vs.

818 GREEN STREET LLC; JOHN KENDALL,
(US BANKRUPTCY TRUSTEE),

DEFENDANTS

AMENDED ADVERSARY PROCEEDING
COMPLAINT

AP CASE NO 14-4094

FIRST AMENDED COMPLAINT

INTRODUCTION

1. Plaintiff brings this action to formally object to an asset listed by 818 Green Street LLC as owned by them and therefore as part of the bankruptcy estate and to require removal of this asset from the bankruptcy estate of 818 Green Street LLC.
2. Plaintiff bases this objection on the fraudulent transfer by Harry Nguyen of the property known as 818-820 Green Street, San Francisco, CA 94108 from Pioneer 74 Lots, LLC to 818 Green Street LLC on May 23, 2014.

AMENDED COMPLAINT ADVERSARY PROCEEDING - 1

1 **PARTIES AND JURISDICTION**

- 2
- 3 3. Plaintiff Martin Lee Eng is the sole owner of Pioneer 74 Lots, LLC, which holds a 75%
- 4 ownership interest in the property known as 818-820 Green Street, San Francisco, CA.
- 5 Martin Lee Eng individually holds the remaining 25% interest in the subject property.
- 6
- 7 4. Defendant 818 Green Street LLC is a California Limited Liability company located at
- 8 1433 7th Avenue, San Francisco, CA 94122. Defendant is the Debtor in the pending
- 9 Chapter 11 Bankruptcy Case No. 14-42286 in the Northern District of California
- 10 (Oakland).
- 11
- 12 5. Defendant John Kendall is the US Bankruptcy Trustee in the Northern District of
- 13 California. Defendant is the U.S. Trustee in the pending converted Chapter 7 Bankruptcy
- 14 Case No. 14-42286 in the Northern District of California (Oakland).
- 15
- 16 6. The relief sought by the complaint generally affects the assets claimed by the Debtor
- 17 included in the estate and therefore is a core proceeding with the meaning of 28 USC
- 18 §157 (b)(2)(H) and to the extent that this proceeding involves any non-core matters, the
- 19 Plaintiff hereby consents to the entry of final orders by the Bankruptcy Judge.

20 **FACTUAL BACKGROUND**

- 21 7. Martin Eng ("ENG") acquired title to the property located at 818-820 Green
- 22 Street, San Francisco, CA 94133 ("818 GREEN PROPERTY") through a deed recorded
- 23 on August 26, 2005 as record number 2005.027706 in the Official Records, San
- 24 Francisco County, CA.
- 25
- 26

1 8. On February 9, 2009, ENG transferred title of 818 GREEN PROPERTY to
2 Pioneer 74 Lots LLC ("PIONEER") through a deed recorded on February 6, 2009 as
3 record number 2009.717005 in the Official Records, San Francisco County, CA.
4

5 9. The 818 GREEN PROPERTY was re-conveyed to ENG on October 4, 2013
6 through a deed recorded on October 4, 2013, as record number 2013.766874 in the
7 Official Records, San Francisco County, CA. ENG then re-conveyed a 75% interest in
8 the 818 GREEN PROPERTY back to PIONEER on the same date through a deed
9 recorded on October 4, 2013 as record number 766876 in the Official Records, San
10 Francisco County, CA. The remaining 25% interest was conveyed to a third party in
11 2013, but was re-conveyed back to ENG on April 25, 2014 through a deed recorded as
12 record number 870528 in the Official Records, San Francisco County, CA.
13

14 10. On May 23, 2014, 818 Green Street LLC ("818 GREEN LLC") recorded a grant deed in
15 the official records of San Francisco County, CA, attempting to transfer 818 GREEN
16 PROPERTY to the 818 GREEN LLC. The signature of ENG, the Managing Owner of
17 PIONEER was forged on this document. The recording was requested by Harry Nguyen,
18 a party unknown to ENG.
19

20 11. On May 26, 2014, 818 GREEN LLC filed a Chapter 11 Voluntary Petition for
21 bankruptcy. In schedule A – Real Property of that petition, the 818 GREEN PROPERTY
22 was listed as an asset of 818 GREEN LLC. The Chapter 11 Proceeding has
23 subsequently been converted to a Chapter 7 proceeding and Bankruptcy Trustee Kendall
24 is officiating over that action.
25
26

FIRST CLAIM FOR RELIEF
FRBP 7001(9) – DECLARATORY JUDGMENT

12. Plaintiff re-alleges and incorporates by reference all of the preceding paragraphs as though fully set forth herein.

13. An actual controversy has arisen and now exists between Plaintiff and Defendant concerning their respective rights and duties in that Plaintiff contends that he is the owner of the 818 GREEN PROPERTY, whereas Defendant disputes this contention and contends that it is the owner of the 818 GREEN PROPERTY and that such property should be included in the bankruptcy estate of 818 GREEN LLC.

14. Plaintiff desires a judicial determination of Plaintiffs rights and a declaration as to the ownership of the 818 GREEN PROPERTY

15. A judicial declaration is necessary and appropriate at this time under the circumstances in order that Plaintiff may ascertain the right of Defendant to include the 818 GREEN PROPERTY in the bankruptcy estate of Defendant. Plaintiff is in danger of having his property sold by the bankruptcy trustee, and Defendant has created a cloud on Plaintiff's title to the 818 GREEN PROPERTY.

SECOND CLAIM FOR RELIEF
CANCELLATION OF INSTRUMENTS

16. Plaintiff re-alleges and incorporates by reference all of the preceding paragraphs as though fully set forth herein.

17. A written instrument that purports to be a Grant Deed executed by ENG on behalf of PIONEER transferring title to the 818 GREEN PROPERTY to 818 GREEN LLC exists

1 as is of record in the Official Records of San Francisco County, CA as instrument number
2 2014.887317.

3 18. This instrument, although apparently valid on its face, is void in that the signature of
4 ENG on behalf of PIONEER has been forged and is fraudulent.

5 19. Plaintiff alleges that Defendants do not have the ability to verify that the subject
6 document was signed by ENG on behalf of PIONEER.

7 20. In order to serve justice and protect the ownership rights of Plaintiff in the 818 GREEN
8 PROPERTY, Plaintiff requests that the Court determine that the Grant Deed is void and
9 order its cancellation.
10
11

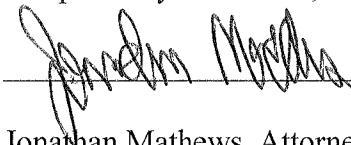
12 **PRAYER FOR RELIEF**

13 Wherefore, Plaintiff prays for judgment against Defendant as follows:

- 14 1. For a removal of the 818 GREEN PROPERTY from the bankruptcy estate of
15 Defendant 818 GREEN STREET LLC.
16
17 2. For a declaration that Defendant 818 GREEN STREET LLC has no ownership
18 interest in the 818 GREEN PROPERTY
19
20 3. For a cancellation of the Grant Deed transferring ownership of the 818 GREEN
21 PROPERTY from PIONEER to Defendant 818 GREEN STREET LLC.
22
23 4. For any debt relief due the Plaintiff from actions taken regarding the 818 GREEN
24 PROPERTY asset in the pending Chapter 7 Proceeding.

25 Dated this 24th day of October, 2014.
26

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Jonathan Mathews", is written over a horizontal line.

Jonathan Mathews, Attorney for Plaintiff